

MINUTES
COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Wednesday, January 3, 2007

Division Two

A112076, A113221 – Rambus, Inc. v. Hynix Semiconductor, Inc. et al.

The judgment is affirmed and Rambus is awarded the costs of appeal. Lambden, J. We Concur: Kline P.J., Richman, J. (Not for Publication.)

A112903 – The People v. Miguel Angel Torres.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A112249 – The People v. Cory Lafayette.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, January 3, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Pollak, J., and Siggins, J.; and B. Robbins, Deputy Clerk.

- A112595 Lionel Foster,
 v.
 Medical Board of California, et al.
Cause called and argued by Albert J. Garcia, counsel for appellant, and Heidi T. Salerno, counsel for respondent. Cause ordered submitted.
- A114626 Christopher Edwin Kindler,
 v.
 Susan Manheimer, Chief of Police, et al.
Cause called and argued by Christopher E. Kindler, counsel for appellant, and Shawn M. Mason, counsel for respondent. Cause ordered submitted.
- A113954 Daewood Electronics America, Inc.,
 v.
 OPTA Corporation.
Cause called and argued by Jeffrey A. Clark, counsel for appellant, and Joseph P. Mascovich, counsel for respondent. Cause order submitted.
- At this point in the proceedings, Justice Pollak left the bench and Justice Parrilli joined the bench.
- A108741 The People,
 v.
 Angela Bufford.
Cause called and argued by Catherine Rivlin, counsel for appellant, and James F. Johnson, counsel for respondent. Cause ordered submitted.
- A112658 Carol Asker, et al.,
 v.
 Pfizer Inc., et al.
Cause called and argued by Lloyd F. LeRoy, counsel for appellants, David J. DeJesus, counsel for respondent Pfizer; and Laura K. Terry, counsel for respondent Wyeth Pharmaceuticals, Inc. Cause ordered submitted.

A111281 In re the Marriage of Deal.
A110256 Thomas M. Deal,
v.
Patricia Kim Deal.
Cause called and argued by Thomas M. Deal, appellant in pro per, and A. Charles Dell'Ario, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Presiding Justice McGuiness left the bench. Justice Pollak re-joined the bench. Justice Parrilli presided over the remainder of the morning calendar.

A114085 United Educators of San Francisco, et al.,
v.
San Francisco Unified School District, et al.
Cause called and argued by Vince Chhabria, counsel for appellant, and Vincent A. Harrington, Jr., counsel for respondent. Cause ordered submitted.

Court Adjourned.

Thursday, January 4, 2007

Division One

A112778 – The People v. Mark Blaine Thigpen.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, January 4, 2007

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J., and P. Aguilar, Deputy Clerk.

Presiding Justice Marchiano announced that Justice Margulies would not be present for oral argument due to illness, Justice Margulies conferenced the cases with the panel and that the oral argument proceedings are recorded and available for her review. All counsel waived the presence of Justice Margulies.

A112173 People
 v.
 Joseph Wells
Cause called and argued by Solomon Wollack, counsel for appellant, and Lisa Ott, counsel for respondent. Cause ordered submitted.

A109092 Gwendolyn Sykes
 v.
 Gwen Rowe-Lee Sykes
Cause called and argued by A. Charles Dell'Ario, counsel for appellant/cross-respondent Douglas Sykes, and Brian Paget, counsel for respondent/cross-appellant Gwendolyn Rowe-Lee Sykes. Cause ordered submitted.

At this point in the proceedings, Justice Marchiano left the bench and Justice Swager joined the bench.

A109626 People
 v.
 Richard Farrugia.
Cause called and argued by Richard Doctoroff, counsel for appellant, and Bruce Ortega, counsel for respondent. Cause ordered submitted.

A113589 La Prairie Group Contractors
 v.
 CE Casecnan et al.
Cause called and argued by Jeffrey Johnson, counsel for appellants, and James W. Kennedy, counsel for respondent. Cause ordered submitted.

Court recessed until 1:30 p.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Thursday, January 4, 2007

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Marchiano, P.J., Stein, J. Swager, J. and F. Abad, Deputy Clerk.

Presiding Justice Marchiano announced that Justice Margulies would not be present for oral argument due to illness, Justice Margulies conferenced the cases with the panel and that the oral argument proceedings are recorded and available for her review. All counsel waived the presence of Justice Margulies.

A114147 Martha R. Depper
v.
Christopher R. Lucas et al.
Cause called and argued by Jerry Hauser, counsel for appellants Lucas et al., John Coker, counsel for appellant Alba Burnett, and Stephen Gianelli, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, Justice Stein left the bench.

A111616 Donal W. McLeod
v.
Tradco, Inc. et al.
Cause called and argued by Hadden Roth, counsel for appellant, and Gary Ragghianti, counsel for respondents Cause ordered submitted.

A112279 Herman James Ledbetter
v.
James Eugene Holland
Cause called and argued by Berehanu Chall, counsel for appellant, and Norman LaForce, counsel for respondent. Cause ordered submitted.

Court Adjourned.

Thursday, January 4, 2007 (continued)

Division Two

A113879 – Horacio Candia v. Richard Bracco et al.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A110195 – The People v. Charley Charles.

The case is remanded for resentencing in entirety based on the views expressed in this opinion. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A112338 – Guardianship of Allyssa C. Ruth M. v. Christina N.

The judgment is affirmed. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Division Five

A113182 – The People v. Gerardo Rosales Zuniga.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Bruiniers, J.* (Not for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Friday, January 5, 2007

Division One

A114505 – State Compensation Insurance Fund v. Workers’ Compensation Appeals Board and Jose C. Echeverria.

The Board’s decision to apply the 1997 PD schedule is not supported by substantial evidence. It is therefore annulled and the matter is remanded to the Board for further proceedings consistent with this opinion. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A114506 – Nestle Ice Cream Company, LLC v. Workers’ Compensation Appeals Board and Ken Ryerson.

The Board’s order dismissing the petition for reconsideration as untimely is annulled. The case is remanded to the Board for consideration of the issues raised in that petition on their merits. The parties shall bear their own costs herein. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Two

A109914 – The People v. Lew C. Saetern.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Division Three

A111195 – The People v. Alonzo Lee Murphy.

The judgment is reversed and the matter remanded to the superior court for further proceedings consistent with this opinion. Siggins, J. I Concur: Parrilli, Acting P.J. (See dissenting opinion of Pollak, J.) (Not for Publication.)

Friday, January 5, 2007 (continued)

Division Three

**A111584 – In re the Marriage of Richard Miller and Angela Browne-Miller.
Richard Miller v. Angela Browne-Miller.**

The order of July 12, 2005, is affirmed insofar as it denies the motion to set aside the 1997 judgment and Angela's motion for attorney fees and costs, and is reversed insofar as it 1) impliedly denies the motion to divide omitted assets between the parties as set forth in parts III and IV. A. of this opinion; 2) orders Angela to reimburse the \$170,000 advance on her portion of the omitted assets; 3) orders Angela to reimburse \$120,000 in pendente lite spousal support; and 4) orders Angela to pay sanctions in the amount of \$50,000. The determination that Richard's April 1, 2003 "child support credit balance" was \$205,374 is vacated without prejudice to a final accounting of Richard's child support payments and obligations in accordance with part VII of this opinion. In all other respects, the order is affirmed. The matter is remanded to the trial court for further proceedings in accordance with this opinion.

The parties shall bear their respective costs on appeal. (Cal. Rules of Court, rule 8.276(a)(3).) Angela's request for attorney fees on appeal must be addressed to the trial court for first instance. (*In re Marriage of Cheriton* (2001) 92 Cal.App.4th 269, 320; *In re Marriage of Schofield* (1998) 62 Cal.App.4th 131, 140-141.) Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication.)

Division Five

A114341 – Gretchen Lewis v. Elan Grozbord.

The March 28, 2006 and April 5, 2006 orders are reversed to the extent that they award attorney fees as sanctions to respondent. In all other respects, those orders are affirmed. Jones, P.J. We Concur: Simons, J., Miller, J. * (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 8, 2007

Division Three

A109649 – The People v. Harold Harris, Jr.

The judgment is affirmed. Parrilli, Acting P.J. We Concur: Pollak, J., Siggins, J. (Not for Publication.)

A114403 – The People v. Dimitri Orlando Braud.

Accordingly, the judgment is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Monday, January 8, 2006

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Ruvolo, P.J., Reardon, J. and Rivera, J.; Pam Aguilar, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

A112347 Verlie Tatum, etc..
v.
City and County of San Francisco et al.
Cause called. Melvin Haynes argued for appellant Tatum. Robert Bonta argued for respondents. Cause submitted.

A113135 Michael Booker
v.
Echostar Communications Corporation et al.
Cause called. Lawrence Schonbrun argued for appellant Booker. Rachel Cohen argued for respondent Echostar. Brain Murphy teleargued for respondent Prestemon. Cause submitted.

For the next cause, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.

A111990 Coffee Lane Alliance et al.
V.
County of Sonoma et al.
Cause called. James Wagstaff argued for appellants Alliance et al. Jeffrey M. Brax argued for respondent County. Clay Clement argued for real party Dumol. Cause submitted.

For the next cause, the court reconstituted itself to include Ruvolo, P.J., Sepulveda, J., and Rivera, J.

A111740

People,
V.

Jose Lenin Romero.

Cause called. Philip Brooks argued for appellant Romero. John Deist argued for respondent. Cause submitted.

Court adjourned at 11:15 p.m.

Monday, January 8, 2007 (continued)

Division Five

A113289 – Eureka Citizens for Responsible Government et al. v. City of Eureka et al.; Eureka Church of the Nazarene et al., R.P.I.

The judgment is affirmed. Bruiniers, J.* We Concur: Simons, Acting P.J., Gemello, J.
(Not for Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, January 9, 2007

Division One

A114033 – The People v. Richard Kahute.

The judgment is affirmed. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

Division Three

A114177 – Daniel L. Balsam v. DentalPlans.com, Inc.

The order granting the motion to quash service of summons is affirmed. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication.)

Division Four

A112704 – St. Helena Community Partners v. CMR Mortgage Fund, LLC et al.

The judgment is modified to substitute the following language for paragraph (8) in its entirety: “That the Sale Agreement shall be sold through a sale of foreclosure in the manner prescribed by law; that the proceeds of the sale shall be applied in payment of the amounts due CBW under this Judgment; and that St. Helena shall retain any and all rights of redemption, as provided by law.” As so modified, the judgment is affirmed. Respondents are awarded their costs on appeal. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A112888 – St. Helena Community Partners v. CMR Mortgage Fund, LLC et al.

The order awarding attorney fees to respondents is affirmed. Respondents are awarded their costs on appeal. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

Wednesday, January 10, 2007

Division One

A109092 – Douglas Sykes v. Gwendolyn Rowe-Lee Sykes.

The order denying Gwen's request for a residence exclusion order is affirmed.
Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A111745 – Kenneth Mathews v. David Dun.

The trial court's judgment is affirmed. Respondent is awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A111274 – Bernard Blair et al v. City of Novato; Woodview Properties, LLC, R.P.I.

The judgment is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Division Three

A113376 – Uphold Our Heritage v. Town of Woodside; Steven Jobs, R.P.I.

The judgment is affirmed. Heritage shall recover its costs on appeal. Pollak, J. We Concur: Parrilli, Acting, P.J., Siggins, J. (Not for Publication.)

A112658 – Carol Asker et al v. Wyeth Pharmaceuticals, Inc.

The judgment is reversed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A112573 – Affiliated Brokers v. Lillian M. Alexander-Lewis, Hong Jacquelyn Gardner et al.

The judgment is affirmed. Respondents shall recover their costs on appeal. McGuiness, P.J. We Concur: Parrilli, J. Siggins, J. (Not for Publication.)

A112595 – Lionel S. Foster v. Medical Board of California et al.

The judgment entered following the order sustaining the demurrer without leave to amend is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A114626 – Christopher Edwin Kindler v. Susan E. Manheimer, as Chief of Police; Shawn M. Mason, as City Attorney, etc., R.P.I.

The judgment is affirmed. Pollak, J. We Concur: McGuiness, J., Siggins, J. (Not for Publication.)

Wednesday, January 10, 2007 (continued)

Division Four

A115821 – Pamela D. v. The Superior Court of Contra Costa County; Contra Costa County Department of Children and Family Services.

The petition for writ of mandate is denied on the merits. (§ 366.26, subd. (l)(1)(C); Cal. Rules of Court, rule 8.452(e); *In re Julie S.* (1996) 48 Cal.App.4th 988, 990-991.) The request for a stay of the February 22, 2007 hearing is denied. Our decision is final immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Reardon, J. We Concur; Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A114094 – The People v. Ricky Tith.

The judgment is affirmed. Miller, J.* We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A113907 – The People v. Craig A. Lahr.

The judgment is affirmed. Gemello, J. We Concur: Simons, Acting P.J., Miller, J.* (Not for Publication.)

A112717 – In re Danielle L. et al., a Person Coming Under the Juvenile Court Law. Contra Costa County Bureau of Children and Family Services v. Andrea D.

The order terminating parental rights is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Thursday, January 11, 2007

Division One

A108832/A109222 – Organization of Women Architects and Design Professionals et al. v. Health Net of California, Inc. et al.

The order granting the preliminary injunction is affirmed with directions that upon remand the court shall require respondents to post an undertaking pursuant to Code of Civil Procedure section 529, or shall dissolve the injunction. The order denying Health Net's motion to compel arbitration is affirmed. Respondents shall be entitled to their costs on appeal. Stein, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A111616 - Donald W. McLeod, as Trustee, etc. v. Tradco, Inc. et al.

The judgment is affirmed. Defendants' motion for sanctions for a frivolous appeal is denied. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

A114147 – Martha R. Depper v. Corey K Burnett et al.

The order denying the anti-SLAPP motion to strike is affirmed. Defendants' motion for judicial notice is denied. Martha's motion for Rule 27 sanctions is also denied. Marchiano, P.J. We Concur: Stein, J., Swager, J. (Not for Publication.)

Division Two

A112343/A112594 – Patricia Samples v. Edmund G Brown, Jr. as Attorney General, etc.

The judgment and the attorney fees order are reversed. Costs on appeal are awarded to appellant. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Certified for Publication.)

A109031 – The People v. Gregory Bluit.

For the ongoing reasons, the judgment and sentence imposed are affirmed. Kline, P.J., We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Four

A114159 – The People v. Eric Jason Floyd.

The imposition of the \$525 drug program fee did not violate the terms of the negotiated disposition. Accordingly, the judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

Thursday, January 11, 2007 (continued)

Division Four

A115734 – In re Sophia N., a Person Coming Under the Juvenile Court Law. Nancy M. v. The superior Court of Solano County; Solano County Department of Health and Social Services, R.P.I.

Petitioner's petition for an extraordinary writ is denied. The juvenile court's order terminating petitioner's reunification services and scheduling a section 366.26 permanency planning hearing is affirmed. Our decision is final in this court immediately. (Rule 8.264(b)(3).) Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Division Five

A114157 – Mark and Kimberly Zembsch v. The Superior Court of Alameda County; Health Net of California, Inc., R.P.I.

By the Court: The opinion filed December 27, 2006 is modified by deleting footnote 4 on page 8 and substituting in its place the following footnote 4: After granting writ review, we discovered that another case recently decided in an unpublished opinion by this division also raised the issue of the adequacy of a Health Net arbitration disclosure. In contrast to the trial court's ruling in *Zembsch*, in the unpublished case the superior court denied Health Net's petition to compel arbitration, holding that a very similar arbitration disclosure failed to meet the requirements of section 1363.1. The existence of conflicting trial court rulings on this issue further strengthens our grant of writ review. (See, e.g., *Corbett v. Superior Court* (2002) 101 Cal.App.4th 649, 657.)

The modification does not affect the judgment. Jones. P.J. (Certified for Partial Publication.)

Friday, January 12, 2007

Division One

A114081 – Steve Poizner, as Insurance Commissioner, etc. v. Golden Eagle Insurance Company, Cajon Valley Union School District.

The commissioner's denial of the district's claim and the trial court's order affirming that dismissal are reversed. The matter is remanded to the commissioner for further proceedings with respect to the district's claim, consistent with this decision. Margulies, J. We Concur: Marchiano, P.J. (See concurring opinion of Marchiano, P.J.), Stein, J. (Certified for Partial Publication.)

A113382 – In re Orlando V., a Person Coming Under the Juvenile Court Law. The People v. Orlando V.

As we have determined that the motion to suppress should have been granted, we need not consider defendant's contention that the evidence is insufficient to support the finding that he was in actual possession of the weapon in the car.

Because there was no legally admissible evidence to support the court's finding that defendant possessed the firearm discovered in the Honda, the jurisdictional order, as well as the dispositional order continuing his wardship, must be reversed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Three

A108741 – The People v. Angela Bufford.

The order denying the People's motion to set the amount of restitution is reversed and the case is remanded. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Certified for Publication.)

A113312 – In re W.J. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Department of Human Services v. Rebecca J.

The juvenile court's order denying Rebecca's petition to modify and terminating her parental rights as to W.J. and J.J. is affirmed. Pollak, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Friday, January 12, 2007 (continued)

Division Four

A109274 – Amelco Industries, Inc. et al. v. Automated Switching & Controls, Inc. et al.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A113238 – The People v. William Don Hoover.

A115923 – In re William Don Hoover, on Habeas Corpus.

The judgment and sentence are affirmed. Appellant's petition for writ of habeas corpus is denied. As to the petition's claim that appellant was denied effective assistance of counsel in the manner in which he was represented with regard to the prosecution's pre-trial plea bargain offer, the petition is denied without prejudice to the issue being presented to the trial court. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

Tuesday, January 16 , 2007

Division Two

A112525 – In re M.V., a Person Coming Under the Juvenile Court Law. San Mateo County Human Services Agency v. Tina F. et al.

By the Court: The opinion in the above-entitled matter, filed on December 14, 2006, was not certified for publication in the Official Reports. For good cause, request for publication is granted.

Pursuant to California Rules of Court, rules 8.165 and 8.1110, the opinion in the above-entitled matter is ordered certified for publication in the Official Reports. Kline, P.J. (Certified for Publication.)

A108700 – The People v. Wayne Allen Olson.

The judgment of conviction is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A111930 - The People v. Luis Alberto Santana.

The trial court is directed to amend the abstract of judgment to reflect a sentence on the burglary charge in case no. SCR-28428 of one year, four months. In all other respects, the judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

Tuesday, January 16, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P.J., Haerle, J., Richman, J., Officer Strecker, and S. Wheeler, Deputy Clerk.

- A111634 The People,
 v.
 Christopher Lee Crawford.
Cause called and argued by Solomon Robert Wollack, counsel for appellant, and Christina Vom Saal, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A112815 Sherman Demps, Jr.,
 v.
 San Francisco Housing Authority, et al..
Cause called and argued by Curtis G. Oler, counsel for appellant, and Colin Jeuell and David Streza, counsel for respondents. Cause ordered submitted.
- A111774 Mary McCarthy O'Lee, et al.,
 v.
 Compuware Corporation, et al.
Cause called and argued by Frank M. Hinman, counsel for appellant/cross-respondents, and James Matthew Wagstaffe, counsel for respondent/cross-appellant. Cause ordered submitted.
- A110121 Yvette Munoz, et al.,
 v.
 City of Union City, et al.
Cause called and argued by Daniel U. Smith, counsel for appellants, and George Edson Murphy, counsel for respondents. Cause ordered submitted.

Court recessed until 1:30p.m.

Court reconvened at 1:30 p.m. Present: Kline, P.J., Lambden, J., Richman, J., Officer Chambers and S. Wheeler, Deputy Clerk.

A109933 In re Eric K., a Person Coming Under the Juvenile Court Law.
The People,
v.
Eric K..
Cause called and argued by Daniel Byrne, counsel for appellant, and by Michael Banister, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

At this point in the proceedings, J. Richman left the bench and J. Haerle joins the bench for the remainder of the calendar.

A110098 In re the Marriage of Florence Lovie and Willen Van Der Horst.
Willem Van Der Horst,
v.
Florence Lovie Van Der Horst.
Cause called and argued by Barry Meyer, counsel for appellant, and by Carla Boyd, counsel for respondent. Cause ordered submitted.

A113169 H. Edward Camp,
v.
Sandra Bear.
Cause called and argued by John Hanlin, counsel for appellant, and Curtis Dowling, counsel for respondent. Cause ordered submitted.

Court Adjourned.

Tuesday, January 16, 2007 (continued)

Division Three

A112914 – The People v. Tim Scott Adams.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

**A111281 – In re the Marriage of Patricia Kim Deal and Thomas Mark Deal.
Patricia Kim Deal v. Thomas Mark Deal.**

The orders of the trial court are affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A110256 - In re the Marriage of Patricia Kim Deal and Thomas Mark Deal. Patricia Kim Deal v. Thomas Mark Deal.

The orders of the trial court are affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Five

A112880 – Nicholas Bettencourt et al. v. City and County of San Francisco et al.

The order denying mandamus and injunctive relief is affirmed. The September 2006 stay previously imposed shall remain in effect until the remittitur issues. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

A111455 – Gregory W. Breslin et al. v. City and County of San Francisco et al.

The limitations provision codified in section 3304(d) is intended to encourage the diligent investigation and charging of police officers alleged to have engaged in misconduct. The record before us does not support the implied finding of the commission and the trial court that the city was diligent in bringing charges against these four officers. The civil action tolling exception does not apply to the three officers who were not named defendants in the DeToy action. (See § 3304(d)(6).) The multijurisdictional and multiple employee extensions do not apply on the facts of this matter. (See § 3304(d)(3), (4).) The time for bringing disciplinary charges against Moran, Siragusa and Zerga expired in February 2000, almost two and a half years before they were served with disciplinary charges in June and July 2002. The time for bringing charges against Breslin expired in September 2001, ten months before he was served with disciplinary charges in July 2002. Having concluded that the city failed to timely file the disciplinary charges against each of the four officers, we necessarily find that the trial court erred in denying the officers' petition for mandate.

The order denying mandamus and injunctive relief is reversed. The matter is remanded to the trial court with instructions to enter an order granting the petition for writ of mandate. The November 2005 stay previously imposed shall remain in effect until our remittitur issues.. Reardon, Acting P.J. We Concur: Sepulveda, J., Rivera, J. (Certified for Publication.)

Wednesday, January 17, 2007

Division One

A113668 – The People v. Allen Wayne Speakes.

The judgment is affirmed. Marchiano, P.J. We Concur: Stein, J., Margulies, J. (Not for Publication.)

Division Two

A114506 – Nestle Ice Cream Company, LLC v. Workers’ Compensation Appeals Board and Ken Ryerson.

By the Court: The unpublished opinion in the above-entitled matter was filed on January 5, 2007. For good cause, petitioner’s request for publication is granted.

Pursuant to California Rules of Court, rule 8.1105, the opinion in the above-entitled matter is ordered certified for publication in the Official Reports. Kline, P.J.

A113777 – In re Torrin D., a Person Coming Under the Juvenile Court Law. The People v. Torrin D.

Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A111882 – The People v. Matthew David Ford.

For the foregoing reasons, the case is remanded to the trial court for resentencing. Lambden, J. I Concur: Haerle, J. (See concurring opinion of Kline, P.J.) (Not for Publication.)

A112720 – In re Ayla M., et al., Persons Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Bonnie M., et al.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION TWO

Wednesday, January 17, 2006

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Haerle, Acting P.J., Lambden, J., Richman, J., Officer Ching, and I. Santos, Deputy Clerk.

- A111019 The People,
 v.
 Herbert Lee Wilson.
Cause called and argued by Violet Grayson, counsel for appellant, and Nanette Winaker, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A111611/
A112597 Jose Ayala,
 v.
 San Francisco State University.
Cause called and argued by Jose Ayala, in propia persona, and Harry Gower, counsel for respondent. Cause ordered submitted.
- A112543 In re the Conservatorship of Raven Auhkbar,
 Public Guardian for San Mateo County,
 v.
 Public Guardian for Alameda County.
Cause called and argued by Rebecca Archer, counsel for appellant, and by Ann Hansen, counsel for respondent. Cause ordered submitted.
- Court Adjourned.

Wednesday, January 17, 2007 (continued)

Division Three

A109241 – Lawrence B. Karp v. State Board of Registration for Professional Engineers & Land Surveyors et al.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

A114585 – In re David Miller, on Habeas Corpus.

By the Court: Order Modifying Opinion. It is ordered that the opinion filed herein December 19, 2006, be modified as follows: (See order.) There is no change in the judgment. McGuiness, P.J. (Certified for Publication.)

A114085 – United Educators of San Francisco, AFT/CFT, AFL-CIO-NEA/CTA et al. v. San Francisco Unified School District.

The judgment is reversed. Appellants are to recover their costs on appeal. Pollak, J. We Concur: Parrilli, Acting P.J., Siggins, J. (Not for Publication.)

A113954 – Daewoo Electronics America, Inc. v. Opta Corporation.

The judgment is affirmed. Opta is to recover its costs on appeal. Pollak, J. We Concur: McGuiness, P.J., Siggins, J. (Not for Publication.)

Thursday, January 18, 2007

Division Two

A111523 – The People v. Aman Melles.

The judgment is affirmed. Richman, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

A114066 – In re J.A. et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. K.H.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Three

A111316 – The People v. William Bailey.

The judgment against appellant is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

A115420 – In re Jacob B., a Person Coming Under the Juvenile Court Law. The People v. Jacob B.

The orders of the juvenile court are affirmed. Siggins, J. We Concur: Parrilli, Acting, P.J., Pollak, J. (Not for Publication.)

Division Four

A113135 – Neil Prestemon et al., Michael Booker v. Echostar Communications Corporation et al.

The order awarding attorney fees is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A111109 – The People v. Larry Thomas.

The judgment is reversed as to count nine, affirmed in all other respects, and remanded for resentencing. Gemello, J. We Concur: Jones, P.J., Bruiniers, J*. (Certified for Partial Publication.)

* Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

Thursday, January 18, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J., Simons, J., Gemello, J., Miller, J., on assignment by the Chief Justice, and Richard H. Sandvik, Deputy Clerk.

- A112659 The Guardian Life Insurance Company of America, et al.
v.
Thelen Reid & Priest
Cause called and argued by Adam R. Salvas, counsel for appellants, and by Joel Zeldin, counsel for respondent. Cause ordered submitted.
- A110888 Dennis E. Baca
v.
Saddleback At Blackhawk Association, et al.
Cause called and argued by Alan C. Dell'Ario, counsel for appellants, and by Louis F. Schofield Jr., counsel for respondent. Cause ordered submitted.
- A109656 Broderick Harrison.
v.
City and County of San Francisco
Cause called and argued by Benjamin T. Rosenfield, counsel for appellant, and by Wayne K. Snodgrass, counsel for respondent. Cause order submitted.
- At this point in the proceedings Simons, J. left the bench and Miller, J. entered.
- A113804 Charles Johnson
v.
Marlene Gae Smith Rivera
Cause called and argued by Perry G. Smith, counsel for appellant, and by Noell K. Kubata, counsel for respondent. Cause ordered submitted.
- A114022 Charles Johnson
v.
Pamela M. Lo Coco
Cause called and argued by Perry G. Smith, counsel for appellant, and by Noell K. Kubata, counsel for respondent. Cause ordered submitted.

A113996 Lauran E. Barry
 v.
 Steven Gourley, as Director of Department of Motor Vehicles, etc.
 Cause called and argued by Daniel Alweiss, counsel for appellant, and by
 Geoffrey Rotwein, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Gemello, J. left the bench and Simons, J. joined the bench.

A111197 The People,
 v.
 Manuel Walker.
 Cause called and argued by Mark D. Greenberg, counsel for appellant, and by
 Christopher Wei, counsel for respondent. Cause ordered submitted.

At this point in the proceedings Jones, P.J. left the bench and Gemello, J. joined the bench.

A112502 The People,
 v.
 Joshua Nathan Hernandez
 Cause called and argued by William J. Capriola, counsel for appellant, argued via
 teleconference call, and by Jamie M. Weyand, counsel for respondent. Cause
 ordered submitted.

Court adjourned at 11:53 a.m.

Friday, January 19, 2007

Division One

A110050 – The People v. Victor Gene Schleuder.

The judgment is modified to strike one of the two section 667.5, subdivision (b) enhancements and, as so modified, the judgment is affirmed. The trial court is directed to prepare and forward an amended abstract of judgment reflecting the modification to the Department of Corrections. Marchiano, P.J. We Concur: Swager, J., Margulies, J. (Not for Publication.)

Division Two

A116329 – Sherilee Aragon v. The Superior Court of Alameda; Liberty Life Assurance Company Of Boston, R.P.I.

By the Court: We conclude that the trial court's order appointing a discovery referee is deficient under section 639 and must be reversed. We have reached our decision after notice to all parties that we might act by issuing a peremptory writ in the first instance. (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-189.) The entitlement to relief is obvious. (See *Alexander v. Superior Court* (1993) 5 Cal.4th 1218; *Ng v. Superior Court* (1992) 4 Cal.4th 29.) Accordingly, let a peremptory writ of mandate issue commanding respondent court to vacate its order appointing a discovery referee. The temporary stay of the order previously imposed is hereby dissolved. Petitioner is awarded costs. (Cal. Rules of Court, rule 8.490(m).) Our decision is final as to this court immediately. (See Cal. Rules of Court, rule 8.264(b)(3).) Before Kline, P.J., Lambden, J., and Richman, J. (Not for Publication.)

A110504 – Estate of Eveline P. Schenkhuizen, Deceased. Ronald Schenkhuizen v. Winniefred Smit et al.

The judgment is affirmed. Respondents are awarded their costs on this appeal. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A112427 – Gail Mason et al. v. Laurence G. Foster.

The judgment of the trial court is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Friday, January 19, 2007 (continued)

Division Five

A112854 – Kurt Hahn v. Daniel Mirda et al.

The judgment is reversed. Costs to appellant. Jones, P.J. We Concur: Gemello, J., Miller, J.* (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 22, 2007

Division One

A111014 – The People v. Saint Dejuan Moore, et al.

By the Court: The petition for rehearing is denied. Marchiano, P.J.

A114505 – State Compensation Board Insurance Fund v. Workers' Compensation Appeals Board and Jose C. Echeverria.

By the Court: Order Certifying Opinion For Publication. The request to publish the opinion previously filed on January 5, 2007, is hereby granted.

The written opinion which was filed January 5, 2007, is certified for publication.

The written opinion which was filed on January 5, 2007, has now been certified for publication pursuant to rule 8.1120(b) of the California Rules of Court, and it is therefore ordered that it be published in the official reports. Swager, Acting P.J.

A114134 – In re Jennica L., a Person Coming Under the Juvenile Court Law. The People v. Jennica L.

The judgment is affirmed. Marchiano, J. We Concur: Stein, J., Swager, J. (Not for Publication.)

A109626 – The People v. Richard Farrugia.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

A112107, A112345 – N.V. Heathorn, Inc., et al. v. United States Fidelity and Guaranty Company.

The judgment and new trial order of the trial court are affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Two

A114723 – The People v. Rick Wallace Carter.

The judgment of conviction is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Monday, January 22, 2007 (continued)

Division Three

A108741 – The People v. Angela Bufford.

By the Court: Order Modifying Opinion. It is ordered that the opinion filed herein on January 12, 2007, be modified as follows: (See order.) There is no change in the judgment. McGuiness, P.J. (Certified for Publication.)

A109735, A112506 – In re Athena H. et al., Persons Coming Under the Juvenile Court Law. Department of Social Services for the County of Lake v. Jessica H. et al., Cynthia H. et al.

A111434 – Department of Social Services for the County of Lake v. Jessica H., Cynthia H. et al.

A112930 – In re Jessica H., on Habeas Corpus.

A115422 – In re Athena H. et al., on Habeas Corpus.

The orders of August 22 and December 12, 2005, are conditionally reversed for failure to comply with ICWA's notice provisions and the case is remanded to the juvenile court with directions to order the Department to provide proper ICWA notice of the proceedings and to review the Department's renewed efforts to comply, with specific and exacting attention to the errors described in this opinion. The Department shall file all notices and responses, which the juvenile court shall thoroughly review for compliance with all relevant provisions of ICWA. If, after receiving appropriate notice under the Act, no tribe indicates the minor is an Indian child within the meaning of the Act, then the juvenile court shall reinstate the orders terminating parental rights. In all other respects the juvenile court's orders are affirmed. The petitions for writ of habeas corpus are denied. Siggins, J. We Concur: McGuiness, P.J., Pollak, J. (Not for Publication.)

Division Four

A115421 – In re Otis M., a Person Coming Under the Juvenile Court Law. The People v. Otis M.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A111317, A113041 – Todd Beth et al. v. Everett C. Doughty, III.

The judgment is affirmed. Respondents are entitled to costs on appeal. Simons, J. We Concur: Jones, P.J., Gemello, J. (Not for Publication.)

Tuesday, January 23, 2007

Division Two

**A112361 – In re Earl T., a Person Coming Under the Juvenile Court Law.
The People v. Earl T.**

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A111800 – The People v. Larry Alonzo Chatman.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Three

A114112 – State Compensation Insurance Fund v. Workers' Compensation Appeals Board and Renee T. McMahon.

The petition for writ of review is granted. We annul the award of \$250,000 to the estate of Giradot. In all other respects, the award is affirmed. The parties shall bear their own costs herein. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Tuesday, January 23, 2007

The Court convened at 9:30 a.m. in its courtroom located at 350 McAllister St., San Francisco, California. Present: Ruvolo, P.J., Sepulveda, J., and Rivera, J.; Channing Hoo, Deputy Clerk; CHP Officer Mindy LaPonte, Bailiff.

A110058 People
 v.
 Donald Jones et al.
Cause called. Mark Greenberg argued for appellant Jones. Gregg Zywicke argued for respondent. Cause submitted.

For the next cause, the court reconstituted itself to include Ruvolo, P.J., Reardon, J., and Sepulveda, J.

A113186 People
 v.
 Jason William Weeks
Causes called. Paul Kleven argued for appellant Weeks. Ronald Niver argued for respondent. Causes submitted.

For the next two causes, the court reconstituted itself to include Reardon, Acting P.J., Sepulveda, J., and Rivera, J.

A113538 Belinda Magliocco et al.
 v.
 Maurice Kanbar
Cause called. Paul F. Utrecht argued for appellant Kanbar. Lynne Bantle argued for respondents. Cause submitted.

A107803 Coral Construction, Inc.
 v.
 City and County of San Francisco et al.
Cause called. Sherri Kaiser argued for appellants CCSF et al. Paul Beard argued for respondent. Cause submitted.

Court adjourned at 11:16 a.m.

Tuesday, January 23, 2007 (continued)

Division Five

A115969 – Robinette R. v. Contra Costa County Superior Court; Contra Costa County Department of Children and Family Service, R.P.I.

The order to show cause is discharged, the request for stay is denied, and the petition for extraordinary writ is denied on the merits. Because the matter of setting a permanent plan for the minor has been scheduled for a hearing in the trial court on January 24, 2007, our decision shall be final immediately. (See Cal. Rules of Court, rule 8.264(b)(3).) Miller, J.* We Concur: Simons, Acting P.J., Gemello, J.(Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, January 24, 2007

Division One

A110543 – George W. Ross, Jr. v. San Francisco Bay Area Rapid Transit District.

The judgment in favor of BART is affirmed. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Certified for Partial Publication.)

Division Two

A112564 – Christopher Womack v. San Francisco Community College District et al.

The order denying the petition is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A113527 – Rainer Joachim Faerber v. Thomas F. Hyde et al.

The judgment is affirmed. No costs are awarded. Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

A113832 – The People v. Timothy M. Lyons.

The judgment of conviction is therefore affirmed. Richman, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A114515 – In re Rocio N., et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Jorge N.

The appeal is treated as a petition for writ of mandate and is denied. The decision is final as to this court immediately. (Cal. Rules of Court, rule 8.264(b)(3).) Kline, P.J. We Concur: Haerle, J., Richman, J. (Not for Publication.)

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE

Wednesday, January 24, 2007

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: McGuiness, P.J., Parrilli, J., and Siggins, J.; and J. Alameda, Deputy Clerk.

A113535 Joseph Eli Morrow,
 v.
 The Superior Court of San Mateo;
 The People.
Cause called and argued by Paul DeMeester, counsel for the petitioner, and Deputy Attorney General Christopher Wei, counsel for the real party in interest. Cause ordered submitted.

A112539 Jimmie D. Bonander, et al.,
 v.
 Town of Tiburon, et al.
Cause called and argued by Frank Ira Mulberg, counsel for appellants, and Kevin Siegel, counsel for respondents. Cause ordered submitted.

At this point in the proceedings Justice McGuiness announced that the panel for the next case would consist of himself, Justice Parrilli, and Justice Pollak who was away from court today. He informed counsel that Justice Pollak, upon his return, would review the recorded proceedings. Justice Siggins remained in the courtroom but did not participate in the proceedings.

A113644 Richard M. Syncheg,
 v.
 Najma International Corporation, et al.
Cause called and argued by Harold J. Truett III, counsel for appellant, and Denise K. Top, counsel for respondents. Cause ordered submitted.

At this point in the proceedings, Justice McGuiness left the bench and Justice Parrilli presided over the remainder of the calendar. Justice Parrilli announced that the panel for the next case would consist of herself, Justice Siggins, and Justice Pollak who was away from court today. She informed counsel that Justice Pollak, upon his return, would review the recorded proceedings.

Continued

A109036 The People,
 v.
 Michael Ringo.
Cause called and argued by Neil Jacob Rosenbaum, counsel for appellant, and Sharon Birenbaum, counsel for respondent. Cause ordered submitted.

Justice Parrilli announced that the panel for the next case would consist of herself, Justice Siggins, and Justice Pollak who was away from court today. She informed counsel that Justice Pollak, upon his return, would review the recorded proceedings.

A113941 Steven Escamilla, et al.,
 v.
 Terrance Bezdek, et al.;
 Norma Fogelberg.
Cause called and argued by Robert Staley, counsel for appellants, and P. Kurt Peterson, counsel for respondent. Cause ordered submitted.

Court Adjourned.

Wednesday, January 24, 2007 (continued)

Division Four

A112780 – Beverly Blythe v. Highland Hospital.

The judgment is affirmed. Respondent shall recover its costs on appeal. Sepulveda, J. We Concur: Reardon, Acting P.J., Rivera, J. (Not for Publication.)

A112029 – Yasmeen Tanzel v. The City of Richmond.

The judgment as to the third and fourth causes of action is reversed. In all other respects, the judgment is affirmed. The order awarding attorney fees pursuant to section 1021.5 is reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 27(a).) Ruvolo, P.J. We Concur: Reardon, J., Rivera, J. (Not for Publication.)

Thursday, January 25, 2007

Division One

A111577 – Ronald Latteri v. Oakmont Memorial Park.

The trial court's judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A113126 – The People v. Christopher Willis.

The judgment is affirmed. Haerle, Acting P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

A111611 – Jose Ayala v. San Francisco State University.

A112597 – Jose Ayala v. San Francisco State University.

We affirm all of the court's rulings, orders and judgments appealed from. The University is awarded costs in both appeals. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

Division Four

A113261 – Coffee Lane Alliance et al. v. County of Sonoma et al.; DuMol Wine Company, LLC et al., R.P.I.

The judgment is affirmed. The County and DuMol shall recover their respective costs on appeal. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

A112206 – The People v. Charles O'Neal.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Friday, January 26, 2007

Division One

A111465 – The People v. Joshua James Lahommedieu.

The judgment and rulings appealed from are affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

A115483 – Keith A. Robinson v. The Superior Court of Sonoma County; Union Pacific Railroad Company, et al., R.P.I.

The August 28, 2006 order finding attorney Robinson in contempt of court is void and is therefore annulled. Let a peremptory writ of prohibition issue restraining any further proceedings on the contempt. The stay previously imposed shall remain in effect until the issuance of the remittitur. The parties shall bear their own costs. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A115711 – Charles D. Cochran v. The Superior Court of Sonoma County; Union Pacific Railroad Company, et al., R.P.I.

The August 28, 2006 order finding attorney Cochran in contempt of court is void and is therefore annulled. Let a peremptory writ of prohibition issue restraining any further proceedings on the contempt. The stay previously imposed shall remain in effect until the issuance of the remittitur. The parties shall bear their own costs. Margulies, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Five

A114769 – The People v. David Bechtol.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Miller, J.* (Not for Publication.)

A111081 – The People v. Anthony Price.

The order extending appellant's commitment is reversed. The court is directed to enter a new order granting the motion to dismiss. Jones, P.J. We Concur: Gemello, J., Miller, J.* (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution

Friday, January 26, 2007 (continued)

Division Five

A115791 – Heiko Gieraths v. The Superior Court of San Francisco County; The People, R.P.I.

By the Court: Let a peremptory writ of mandate issue directing the superior court appellate division to vacate its October 13, 2006 order denying petitioner's petition for writ of mandate and to issue a new and different order granting the petition and further directing the superior court to (1) vacate its order denying petitioner's motion to dismiss insofar as that motion raised a federal constitutional speedy trial issue, (2) conduct a new hearing on that motion, and (3) make appropriate factual findings and expressly apply the balancing test set forth in *Barker v. Wingo, supra*, 407 U.S. at pp. 530-533. (See Code Civ. Proc., § 1085, subd. (b).) In all other respects, the petition before this court is denied. This decision shall be final as to this court within five (5) court days. (Cal. Rules of Court, rule 8.264(b)(3).) Before Jones, P.J., Simons, J. and Gemello, J. (Not for Publication.)

A113804, A114022 – Estate of Zebulon Kirk Johnson, Deceased. Charles Johnson et al v. Marlene Gae Smith Rivera et al.

Appellants' request for judicial notice is denied. The order denying the special motion to strike is affirmed. LoCoco's appeal is dismissed. Miller, J.* We Concur: Jones P.J., Gemello, J. (Not for Publication.)

A114769 – The People v. David Bechtol.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Miller, J.* (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Monday, January 29, 2007

Division One

A112279 – Herman Ledbetter v. Tenderloin Neighborhood Development Corporation et al.

The judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A113911 – Adelaida Lagace v. Mills Peninsula Hospital.

The ruling is affirmed. Swager, J. We Concur: Marchiano, P.J., Stein, J. (Not for Publication.)

Division Two

A112343, A112594 – Patricia Samples v. Edmund G. Brown, Jr., as Attorney General, etc.

By the Court: It is ordered that the opinion filed on January 11, 2007, be modified as follows: (See order.) These modifications do not effect a change in the judgment. Samples's petition for rehearing is denied. Kline, P.J. (Certified for Publication.)

A109933 – In re Eric K., a Person Coming Under the Juvenile Court Law. The People v. Eric K.

The juvenile court's judgment is affirmed, except that Eric's maximum period of confinement is hereby reduced from 12 years to 10 years. The juvenile court is hereby ordered to amend its abstract of judgment accordingly. Lambden, J. We Concur: Lambden, J. We Concur: Kline, P.J., Richman, J. (Not for Publication.)

Division Four

A111631 – The People v. Thomas Dwayne Hyde.

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A109017 – The People v. Thomas Edward Martinez.

The judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A112326 – The People v. Melvin Hatch.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting, J., Rivera, J. (Not for Publication.)

Monday, January 29, 2007 (continued)

Division Four

A113477 – In re S.G., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Reyvon H.

The judgment terminating parental rights is reversed, and the matter is remanded to the juvenile court with directions to order the Department to comply with the notice provisions of the ICWA, the relevant case law interpreting the ICWA, and the views expressed in this opinion. If, after proper inquiry and notice, a tribe claims S. G. is an Indian child, the juvenile court shall proceed in conformity with all provisions of the ICWA. If, on the other hand, no response is received or no tribe claims that S. G. is an Indian child, the judgment terminating appellant's parental rights shall be reinstated. Ruvolo, P.J. We Concur: Reardon, J., Sepulveda, J. (Not for Publication.)

A113918 - In re Samra N., a Person Coming Under the Juvenile Court Law. The People v. Samra N.

The judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A110888 – Dennis E. Baca v. Saddleback at Blackhawk Association et al.

The trial court order is reversed with respect to the third, fifth, sixth, and eighth causes of action. The court is directed to enter a new order granting the section 425.16 motion and striking those claims. The order is affirmed in all other respects, and the matter is remanded for further proceedings. In the interests of justice each side shall bear its own costs. Gemello, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Tuesday, January 30, 2007

Division One

A113496 – The People v. Jimmy T. Brown.

Accordingly, the AIDS testing order imposed pursuant to section 1202.1 is reversed, and the case is remanded to the trial court with directions to conduct further proceedings if elected by the prosecution at which evidence may be offered to establish probable cause to support the order. In all other respects the judgment is affirmed. Swager, J. We Concur: Marchiano, P.J., Margulies, J. (Not for Publication.)

A113058 – The People v. Michael Alejandro Gomez.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Margulies, J. (Not for Publication.)

Division Two

A113099 – In re A.S. et al., Persons Coming Under the Juvenile Court Law. Mendocino County Department of Social Services v. Marc S.

The dispositional order is affirmed. Richman, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A111995 – In re Joseph L., a Person Coming Under the Juvenile Court Law. The People v. Joseph L.

A114684- In re Joseph L., on Habeas Corpus.

The matter is remanded to the juvenile court to strike the prohibition on firearm ownership, possession, or use by appellant until the age of 30 and to notify the Department of Justice to correct its records to reflect that appellant is not subject to the provisions of section 12021, subdivision (e). In all other respects, the judgment is affirmed.

In a petition for a writ of habeas corpus (A114684), which this court previously ordered to be considered with the appeal, appellant contends his trial counsel provided ineffective assistance. We have reviewed the petition and hereby deny it. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A113294 – The People v. Robert Trembly.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Richman, J. (Not for Publication.)

A113658 – In re Alexander C., et al., Persons Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Barton G.

The orders appealed from are affirmed. Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

Tuesday, January 30, 2007 (continued)

Division Two

A110691 – Ginbineh T. Ayele v. Kaiser Foundation Health Plan, Inc., et al.

A111346 – Ginbineh T. Ayele v. Geneva Pharmaceuticals, Inc., et al.

The judgment is affirmed. Kaiser is entitled to its costs on appeal. Kline, P.J. We Concur: Lambden, J., Richman, J. (Not for Publication.)

Division Three

A113535 – Joseph Eli Morrow v. The Superior Court of San Mateo County; The People, R.P.I.

Accordingly, the petition for a writ of mandate is denied and the temporary stay of trial proceedings previously issued is dissolved. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

Division Four

A111990 – The People v. Timothy Richard Schwartz.

Defendant's conviction of attempted grand theft in count three is reversed. A modified abstract of judgment shall be prepared by the trial court deleting the imposition of a concurrent one-year term on that count, and shall be forwarded to the Department of Corrections. In all other respects, the judgment is affirmed. Rivera, J. We Concur: Reardon, Acting, P.J., Sepulveda, J. (Not for Publication.)

A113934 – The People v. Reabert Charles Gilchrist.

The judgment is affirmed. Ruvolo, P.J. We Concur: Sepulveda, J., Rivera, J. (Not for Publication.)

A113062 – Steven L. Gomes et al. v. Ukiah Unified School District et al.

The judgment is reversed. The matter is remanded with directions to issue a peremptory writ of mandate invalidating the October 2000 fee resolution, and ordering the District to refund to Gomes all fees collected pursuant to that resolution with interest thereon as prescribed by Government Code section 66020, subdivision (f)(1). Rivera, J. We Concur: Ruvolo, P.J., Reardon, J.

Tuesday, January 30, 2007 (continued)

Division Four

A114250 – The People v. Thomas Mark Nordahl.

The trial court is ordered to correct the abstract of judgment to reflect restitution fines in the amount of \$200 and to transmit the corrected abstract to the Director of the Department of Corrections. In all other respects, the judgment is affirmed. Reardon, J. We Concur: Ruvolo, P.J., Sepulveda, J. (Not for Publication.)

A110058 – The People v. Larry Dean Ridge, Jr. et al.

The judgment against Ridge is affirmed. The judgment against Jones is modified to change the 25 years to life firearm use enhancement (§ 12022.53, subd. (d)) on count five to a 20-year firearm use enhancement (§ 12022.53, subd. (c)), and is otherwise affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Rivera, J. (Not for Publication.)

Division Five

A096083, A110446 – The People v. Michael Glenn Braxton.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A113328 - Dickey O'Dell Lee v. Thyssenkrupp Elevator Corporation.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Miller, J.* (Not for Publication.)

A114026 – The People v. Charles Heard.

There are no arguable issues. The order is affirmed. Simons, J. We Concur: Jones, P.J., Miller, J.* (Not for Publication.)

A112383 – Robert Roe v. State Personnel Board; Department of Justice, R.P.I.

The judgment is reversed. The matter is remanded to the trial court for a determination of reasonable attorney fees to be awarded Roe pursuant to title 42 United States Code section 1988, subdivision (b) consistent with the opinions expressed herein. Gemello, K. We Concur: Simons, Acting P.J., Miller, J.* (Not for Publication.)

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

* Judge of the Superior Court of San Francisco County, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Wednesday, January 31, 2007

Division One

A110695 – The People v. Jerome Buros.

The judgment is affirmed. Margulies, J. We Concur: Marchiano, P.J., Swager, J. (Not for Publication.)

Division Three

A113241 – The People v. Raymundo Quintero.

The order is affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A114391 – The People v. Ronald Wayne Hill.

The judgment is affirmed. Siggins, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A112539 – Jimmie D. Bonander et al. v. Town of Tiburon et al.

The judgment of dismissal is affirmed. Respondents shall recover costs on appeal. McGuiness, P.J. We Concur: Parrilli, J., Siggins, J. (Not for Publication.)

Division Four

A113186 – The People v. Jason William Weeks.

The abstract of judgment is ordered corrected to reflect that defendant was sentenced to a principle term of two years on count one and a concurrent term of two years on count three. In all other respects, the judgment is affirmed. Sepulveda, J. We Concur: Ruvolo, P.J., Reardon, J. (Not for Publication.)

Wednesday, January 31, 2007 (continued)

Division Five

A112659 – Guardian Life Insurance Company of America et al. v. Thelen Reid & Priest.

The judgment is affirmed. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)

A112558 – In re the Marriage of Joseph and Lisa Alfar. Joseph Alfar v. Lisa Alfar.

The October 7, 2005 order denying Husband's motion to vacate the March 4, 2005 reinstated judgment on reversed issues is affirmed. Wife to recover costs on appeal. Jones, P.J. We Concur: Simons, J., Gemello, J. (Not for Publication.)